

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ADELE DEL VALLE MESSULAM

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-4066

Decision No. CU 3946

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on behalf of ADELE DEL VALLE MESSULAM who has since processed it for \$33,362.00 based upon the asserted ownership and loss of real and personal property in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights of interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant describes her loss as follows:

1) Realty in Guanabacoa	\$ 6,800.00
2) Apartment at Santa Maria del Mar	6,500.00
3) Personalty in two locations, including an automobile	5,400.00
4) Savings accounts	<u>14,662.00</u>
	\$33,362.00

Based upon the entire record, including notarial documents, the Commission finds that claimant jointly owned, with her husband, a Cuban national, real and personal properties described further below.

The Commission finds that the claimant's interests in the properties were taken by the Government of Cuba on May 1, 1966, although claimant and her husband may have continued in possession for a period thereafter, until leaving Cuba.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

Based on the entire record, including the aforementioned notarial documents, and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that the properties subject of this claim had the following values on the date of loss:

1) Investment in lot in Guanabacoa	\$6,772.68
2) Investment in apartment in Santa Maria del Mar	6,280.48
3) Personalty: furnishings and an automobile	6,185.00
4) Three bank accounts	<u>13,822.35</u>
	\$33,060.51

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$16,530.25 within the meaning of Title V of the Act, as the result of the taking of the property by the Government of Cuba on May 1, 1966.

The husband of claimant, Joseph Messulam, owner of a one-half interest in the aforesaid real and personal property, in accordance with the Community Property Laws of Cuba, was not a national of the United States at the time of loss. In order for the Commission to favorably consider a claim filed under Title V of the Act, it must be established that (1) the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization has been continuously owned thereafter in whole or in part by a national of the United States to the date of filing claim with the Commission. (See Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966].)

Thus, while Joseph Messulam has not asserted a claim herein for loss of his one-half interest in the subject properties, the instant claim was based upon the total value of all property included in the claim. Accordingly, the claim asserted herein for loss of properties owned by Joseph Messulam, to the extent of a one-half interest, is hereby denied.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that ADELE DEL VALLE MESSULAM suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixteen Thousand Five Hundred Thirty Dollars and Twenty-five Cents (\$16,530.25) with interest at 6% per annum from May 1, 1966 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

OCT 1 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)